

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-00306R

Parcel No. 100/02571-000-000

**Mario Rodriquez,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 22, 2020. Mario Rodriquez was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review.

Mario and Ana Rodriguez own a residential property located at 4507 Beaver Crest Drive, Des Moines, Iowa. Its January 1, 2019, assessment was set at \$220,100, allocated as \$37,100 in land value and \$183,000 in building value. After abatement, the taxable value was \$198,150. (Ex. A).

Rodriguez petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). The Board of Review modified the building value to \$153,950 and set the total value at \$213,000; after abatement, the new taxable value was \$191,050. (Ex. B).

Rodriguez then appealed to PAAB re-asserting his equity claim and also claiming his property was assessed for more than the value authorized by law, and there was an error in the assessment. § 441.37(1)(a)(1, 2, & 4) (2019).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is a one-story brick home built in 1938. It has 1333 square feet of gross living area, 490 square feet of average-quality basement finish, and a patio. The improvements are listed in above-normal condition with a 4+00 Grade (average quality). There is also a two-car detached garage built in 1975 and listed in normal condition. The site is 0.180 acres. (Ex. A).

The Rodriguezes submitted a 2016 appraisal of the subject property completed by Lisa Bussan of Boulder Appraisal, LLC, Ankeny. (Ex. 8). Bussan reported that the Rodriguezes purchased the subject property in 2016 for \$168,000, after it had been on the market for two days. (Ex. 8, p. 1).

Bussan's report indicated the subject property's kitchen had not been updated, and the property had "average ongoing care and maintenance with no major update or remodel...." (Ex. 8, p. 1). She also noted the subject had 491 square feet of average basement finish. (Ex. 8, pp. 1 & 5).

She developed the sales comparison approach to value using six 2015 and 2016 sales, and concluded an opinion of value of \$170,000 as of June 2016. In this case, we find the appraisal's June 2016 valuation of the subject property, and even older sales used in it, are an unreliable indication of its current value for the January 1, 2019 assessment.

Rodriguez asserts there is an error in his assessment regarding the amount and quality of basement finish. His property is listed as having 490 square feet of average quality finish with a depreciated assessed value \$8,283.<sup>1</sup> Rodriguez testified he removed the basement finish in September 2019 because it was of poor quality. (Ex. 6). Polk County Chief Deputy Assessor Amy Rasmussen testified for the Board of Review. Rasmussen explained that because the basement finish was removed after the January 1, 2019 assessment date, it would not affect the current assessed value but it would affect future assessments.

Rodriguez also testified about two urban revitalization tax abatements he applied for since he purchased the subject property. (Ex. 3). The 2016 abatement application was for a new roof replacement, sump pumps and trenching, and gutters. The estimated cost of these improvements was \$7,500. Rodriguez testified only half of the roof was replaced. The 2018 abatement was to replace the driveway, the flooring in the family room, landscaping/waterproofing, and some other items with an estimated cost of just under \$23,000. (Ex. 3 & Appeal).

Rodriguez believes his assessment was disproportionally increased because of this work and asserts the work simply replaced or repaired damaged areas but did not result in an increase of the gross living area. (Appeal). Although the total revitalization costs were roughly \$30,500, the actual "added value" applied to the Rodríguezes' assessment was \$6,890 and \$12,200 respectively; or \$19,090 combined. (Ex. A, p. 2).

Lastly, Rodriguez submitted three properties located on Beaver Crest Drive he believes support his claims. (Exs. 1, 2 & 4). The following table summarizes these properties.

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<sup>1</sup> \$8,575 replacement cost new X 0.70 physical depreciation X 1.38 neighborhood adjustment = \$8,238 rounded.

Address	Gross Living Area (SF)	Garage	2015 Total Assessed Value	2017 Total Assessed Value	2019 Total Assessed Value
Subject	1333	2 Det	\$166,700	\$188,700	\$213,000
1 - 4415 Beaver Crest Dr	1504	1 Det	\$143,600	\$161,400	\$177,600
2 - 4517 Beaver Crest Dr	1332	1 Det	\$148,600	\$151,000 <sup>2</sup>	\$165,500
3 - 4601 Beaver Crest Dr	1504	1 Det	\$156,900	\$176,100	\$193,600

None of the properties have recently sold. Rodriguez's complaint is that his assessment increased at a higher year-over-year rate since his 2016 purchase compared to these nearby properties; and he does not believe he could sell his property for its current assessment of \$213,000. His property assessment increased approximately 28% since the 2015 assessment. Comparatively, 4415 Beaver Crest Drive's assessment increased roughly 24% over that same time; 4517 Beaver Crest Drive increased roughly 11%; and 4601 Beaver Crest Drive increased just over 23%. We note between 2017 and 2019, 4415 Beaver Crest Drive's assessment increased roughly 10%, 4517 Beaver Crest Drive had a 9.6% increase, and 4601 Beaver Crest Drive increased almost 10%. The subject property increased 13% for the same time.

Rasmussen explained Rodríguezes' assessed value increased as a result of countywide revaluations in 2017 and 2019, as well as improvements to the property as part of the revitalization abatement programs. There is no indication Rodríguezes' comparable properties had permits filed for renovations, remodeling, or any type of revitalization to the improvements similar to what has been done to the subject property, which may be a partial explanation of their slightly lower increases. (Exs. 1, 2 & 6).

We also note all of the properties have less main-level living area than the subject's one-story design. 4415 Beaver Crest and 4601 Beaver Crest are both one-story brick homes with a finished attic. Respectively, they have 1074 and 1126 square feet of main level living area compared to the subject's main level living area of 1333 square feet. (Ex. 1 & 4). 4517 Beaver Crest Drive is a two-story home with only 684 square feet of main living area compared to the subject property. (Ex. 2). Main-floor

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<sup>2</sup> The original assessment was \$167,700; the assessment was reduced by Board of Review Action to \$151,000. (Ex. 2).

living area tends to have a greater cost than second-story living area. Additionally, both properties lack basement finish and have smaller garages built in the mid-1930s. All of these differences would contribute to their lower assessed values compared to the subject property.

### **Analysis & Conclusions of Law**

Rodriguez contends the subject property is inequitably assessed, over assessed, and there is an error in the assessment as provided under Iowa Code section 441.37(1)(a)(1, 2 & 4). Rodriguez bears the burden of proof. § 441.21(3).

Rodriguez claimed there was an error in the assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). Rodriguez testified he removed the basement finish but this was done in September 2019, well after the January 1, 2019 assessment. Because the finish existed at the time of the assessment, we do not find an error exists.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, we find Rodriguez failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The Maxwell test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* Rodriguez submitted several properties for consideration but none have recently sold and we cannot develop the *Maxwell* ratio analysis for these properties. Further, because the *Maxwell* test also requires a showing of the subject property's actual market value as compared to its current assessment and an over assessment claim requires the same showing, and we therefore, turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

Although Rodriguez submitted an appraisal valuing the subject property as of 2016, he did not provide any evidence of the property's 2019 value. The dated appraisal, and sales used therein, is not reliable to establish the property's current value. Moreover, simply comparing assessments and assessment percentage increases is not sufficient evidence to support either an over assessment or inequity claim.

Because Rodriguez has removed existing basement finish that contributed \$8,238 to his assessed value, he may wish to request an interior inspection by the Assessor's Office to ensure his property is properly listed prior to the next assessment cycle.

Viewing the record as a whole, we find Rodriguez has failed to support his claims.

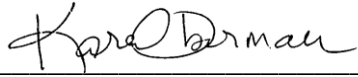
## **Order**

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

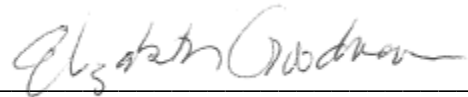
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member



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Dennis Loll, Board Member

Copies to:

Mario Rodriguez by eFile

Polk County Board of Review by eFile